



STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
CARVEL STATE BUILDING  
820 N. FRENCH STREET  
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE  
TECHNICAL INFORMATION MEMORANDUM NO. 90-1

August 29, 1990

SUBJECT: House Bill No. 729, 67 Delaware Laws ch. 262  
Realty Transfer Tax

Under the above-referenced Act of the Delaware General Assembly, and effective September 1, 1990, no building permit or certificate of occupancy may be issued by any county or municipality without the applicant for the building permit or certificate of occupancy having filled out and filed with the agency or municipality issuing such permits or certificates a return indicating conformity with this Act. This Technical Information Memorandum shall serve as regulations in implementation of the above-cited Act.

When a building permit is requested and the value, for purposes of the building permit, of the proposed construction is less than \$10,000, the applicant is not required to fill out or file any Division of Revenue form. Moreover, the applicant is not required to file if the permit is issued for purposes other than construction or alteration of a building, defined as any structure with a roof supported by columns or walls.

Many applicants who are required to fill out and file a Division of Revenue form may fulfill this requirement by completing the short form "Statement for Building Permit" provided they are exempt from tax for reasons stated on the form.

Applicants who are exempt for distinct reasons not provided on the "Statement for Building Permit" or those who are required to pay a tax should fill out FORM 5401(8)BP. Both that form and the short form "Statement for Building Permit" are attached to this Memorandum. Tax payments are to be made at an office of the Division of Revenue and will be evidenced by a receipt for such payment.

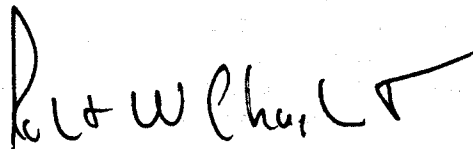
FORM 5401(8)CO to be completed at the time of application for a certificate of compliance or occupancy will be issued shortly as part of another Technical Information Memorandum. Until such

issuance, the filing of a form under this Act to obtain a certificate of occupancy or compliance is waived.

FORM 5401(8)BP and the "Statement for Building Permit" are issued in order to implement the Act, which provides a realty transfer tax (at a rate of 1% against amounts exceeding \$10,000) on the value at cost of construction or alteration of, or additions to, buildings on property whenever such construction, etc., is undertaken within one year after the acquisition of the land or land and improvements on which the construction is to occur and provided the contract or undertaking is entered into after September 1, 1990. In the case of alterations of or additions to existing buildings, the tax applies only if the cost of the alteration or addition exceeds 50% of the value, for realty transfer tax purposes, of the land on which the construction, etc., is to occur. No tax is imposed on construction when the conveyance of the land was itself not subject to the realty transfer tax. For purposes of the Act, "contract" is interpreted to include present sale or purchase of building materials to the extent not provided for under a contract in effect prior to September 1, 1990.

The effectiveness of the Act occurs as follows: The Act is effective for all contracts entered into after September 1, 1990, for which building permits or certificates of occupancy are sought after that date.

It is the Division of Revenue's interpretation of this Act that it does not pertain to the application for a building permit by a builder or developer who acquires the land and obtains the permit for the purpose of including the land with improvements in the builder's or developer's inventory for resale.



Robert W. Chastant  
Director of Revenue

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